

**REMARKS**

Claims 1-25 are pending in the application with Claims 1, 8, 14, 20 and 25 as independent claims. The Examiner has rejected Claims 1-25 under 35 U.S.C. §103(a) as being unpatentable over Terry (U.S. Publication No. 2004/0116125 A1) in view of Bark et al. (U.S. Patent No. 6,445,917 B1).

Reconsideration of the instant application is respectfully requested.

Terry discloses a radio access network and a method for sending multimedia broadcasts/multicast services (MBMS) using channel switching. The channel switching is between dedicated and shared/common channels. Terry also discloses MBMS reception scheduling for use when a wireless transmit/receive device receives an MBMS service from multiple transmission sources. The sources transmit the MBMS service data in differing orders. One embodiment uses in band segmentation information and another embodiment uses out of band synchronization information. (See paragraph 0040).

Regarding the §103(a) rejection, it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness because the prior art of record fails to teach all of the claim limitations as recited in independent Claims 1, 8, 14, 20 and 25. All of the claimed features of independent Claims 1, 8, 14, 20 and 25 are not taught or suggested by the combination of Terry and Bark or by either reference alone.

Terry fails to disclose measuring the total transmission power in a base station according to the measurement command from a Radio network Controller (RNC), and switching the transmission scheme if the measured total transmission power continuously exceeds the predetermined power threshold for a waiting time.

The Examiner also asserts that Bark cures the deficiencies of Terry. Bark discloses measuring in a User Equipment (UE) the parameters associated with the wireless communication to one or more cells, and if the measured parameters are satisfied with the set condition, sending a report to a Radio Access Network (RAN). The RAN performs handoff, power control, and channel type switching in response to the received report. In connection with the channel type switching, switching to the common channel and switching to the dedicated channel are also disclosed (See column 7, line 10).

Bark further discloses that a measurement control message transmitted from a UE includes transmit power (Column 8 lines 36-45), and a report is sent if the UE satisfies the set condition (Column 3 lines 45-60). Moreover, Bark discloses reporting an event when the transmit power of the mobile station becomes greater than or less than the power threshold.

In brief, Bark fails to disclose measuring transmit power in a base station and reporting the measured transmit power in order for controlling the power.

Considering the above, the present invention and the cited references are different from each other in following points.

First, the present invention claims that a base station measures the total transmission power of the dedicated channel, which provides MBMS service, and switches the transmission scheme of MBMS service. However, Terry fails to disclose measuring the total transmission power of the dedicated channel, which provides MBMS service within a cell, and also Bark only discloses measuring transmission power in a mobile station and reporting the measured transmission power. Bark discloses measuring the transmission power in a mobile station. However, the feature of the present invention is different. More particularly, the present invention teaches measuring the transmission power in a base station.

Accordingly, Terry fails to disclose or suggest the feature of the present invention, namely switching transmission scheme according to the total transmission power used to MBMS service within cells. Bark fails to cure this deficiency.

Second, the present invention requests for switching the transmission scheme, if the measured total transmission power exceeds the predetermined power threshold continuously for a waiting time. However, Bark discloses reporting an event corresponding to the transmit power of the mobile station whether the transmit power is larger than or less than the power threshold. In other words, in Bark, the report should be sent regardless of the comparison's result. That is, if the measured transmission power is larger than the power threshold, it sends a report requesting power reduction, or if the measured transmission power is less than the power threshold, it sends a report requesting power increase.

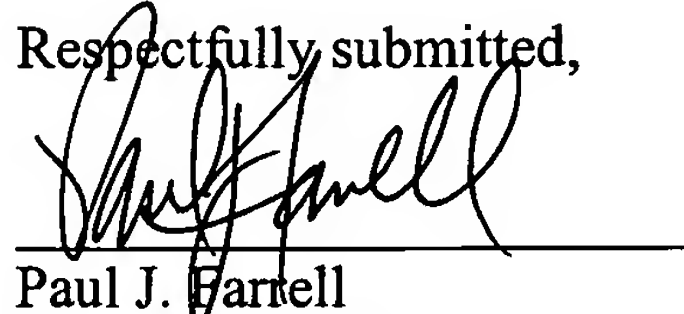
The power threshold of the present invention is used to request switching the transmission scheme of MBMS service. In contrast, the power threshold of Bark determines the report. Thus, the present invention is not obvious over Bark.

Accordingly, *Terry* does not teach or suggest each and every limitation of independent Claims 1, 8, 14, 20 and 25. *Bark* fails to cure the deficiencies of *Terry*. Thus, there are missing claimed features not taught or suggested by the cited references, and thus withdrawal of the rejection of Claims 1, 8, 14, 20 and 25 under 35 USC §103(a) is respectfully requested.

Dependent Claims 2-7, 9-13, 15-19 and 21-23 have been erroneously rejected under 35 U.S.C. §103(a). The Examiner has not established a prima facie showing of obviousness. Therefore, withdrawal of the rejection of dependent Claims 2-7, 9-13, 15-19 and 21-23 under 35 USC §103(a) is respectfully requested.

The application as now presented, containing Claims 1-25 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over a horizontal line.

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